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62

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/526,344	11/07/2005	Stewart Kemp	0002136USU/3053	8949				
7590 08/22/2007								
Paul D Greeley Ohlandt Greeley Ruggiero & Perle 10th Floor One Landmark Square Stamford, CT 06901-2682		<table border="1"><tr><td>EXAMINER</td></tr><tr><td>TRETTEL, MICHAEL</td></tr></table>			EXAMINER	TRETTEL, MICHAEL		
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08/22/2007	PAPER							

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/526,344	Applicant(s) KEMP, STEWART	
	Examiner Michael Trettel	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-21,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11,15,16,18,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 4-8,12-14,19-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/30/07,06/01/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Fowler et al (US 159086). Fowler shows a spring supported bed bottom that comprises a bedframe A that has top bars G mounted transversely across the frame headboard and footboard. Coil springs C are attached to the bars G at their upper ends by nails B and to cross bars D at an opposed lower end. The cross bars D support a slatted bed bottom which includes slats E and support blocks F. The entire bed bottom is thus suspended resiliently upon a plurality of elastic supports formed by the coil springs C. Note that the bed bottom will inherently have some degree of lateral and/or longitudinal movement within the bounds of the bedframe A, since the coil springs C act as elastic links that allow the bed bottom to swing relative to the nails B. The sides and ends of the bedframe A therefore restrain any lateral movement of the bed bottom (column 2, lines 5-15). Note that the coil springs restrain the upward and downward movement of the bedframe by either collapsing or extending to their limits. In addition the support bars G act as upward movement restraints, since the coil springs B can collapse only to their shortest length relative to their connection to the top bars.

Claims 1, 4, 9-11, 15, 16, 18, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffith (US 4,419,778). Griffith shows a furniture suspension system 10 that

Art Unit: 3673

comprises a base 13 and platform 14 which is suspended by a set of four suspension systems 15 upon the base 13. Each suspension system 15 is attached adjacent a corner of the base and platform, and is formed from an upper u-shaped member 17 attached to the platform 14 and a lower u-shaped member 16 attached to the base 13, with a coil spring 18 attached between the horizontal arms of the u-shaped members. The coil springs act as pivot links that allow the platform 14 to swing laterally and longitudinally, since the springs can rotate and pivot relative to their connections to the u-shaped members. This allows the platform 14 to move elastically relative to the base 13. A lateral stabilizer is formed by springs 19a, 19b which extend between the base and the platform. One end of each spring 19a, 19b is attached proximate the center of the base 13, while the opposed ends are attached to the platform 14 along a central axis near the ends of the platform (column 3, lines 13-22). This means that the springs 19a, 19b extend along a central axis of the system 10, and serve to dampen movement of the platform 14 relative to the base 13 along that axis. Note that the u-shaped members inherently act as a restraint upon the upward and downward movement of the platform relative to the base. Since the claims do not define the dimensions of the bed relative to the axes of the bed, the lateral dimension as claimed can be considered as extending along the axis defined by the springs 19a, 19b of Griffith.

Claims 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Coup (US 3,231,304). Coup shows a berth that has a spring suspension which is of particular interest. As shown in Figures 1-4, the berth 4 includes a mattress frame 7 supported upon a set frame members 14 which include rollers 30 mounted to an axle 25 attached to a lower end of the frame members. Frame members 14 extend through openings formed in an upper surface 3 of a

supporting frame 11. The rollers 30 engage tracks 31 attached to and supported by the support frame 11, while cross bars 21 extend across the openings adjacent to the frame members 14. Rubber bands 20 extend between the cross bars 21 and axles 25 and act as an elastic suspension for the mattress frame 7. Lateral and longitudinal movement of the mattress frame is prevented by the rollers 30 and tracks 31 engaging one another and allowing only vertical movement of the mattress frame. The mattress frame can move downward as far as the upper surface 3 of the supporting frame 11, which inherently acts as a limit to the downward movement.

Response to Arguments

Applicant's arguments filed on June 1, 2007 have been fully considered but they are not persuasive. With respect to the arguments offered concerning Fowler and the rejection of claims 23 and 24, the examiner notes that the arguments are narrower than what the claims actually state. It is true that Fowler is concerned with preventing lateral and longitudinal movement of the bed bottom relative to the bedframe, but it is also apparent that there would still be some movement of the bed bottom relative to the bed frame in both the lateral and longitudinal directions. The only support given to the bed bottom in Fowler is by suspending it from a set of springs. There has to be some gap between the edges of the bed bottom and the bed frame at both the sides and the ends, otherwise the bed bottom would jam within the bedframe and not move at all. Therefore, it follows that the bed bottom can in fact move both laterally and longitudinally inside the bed frame, if even only to a slight degree. The bed bottom will bump into the sides and ends of the bed frame, even if this is not an intended goal of the construction of the Fowler patent. Therefore with respect to claims 23 and 24, the sides of the bed frame acts as

Art Unit: 3673

“lateral movement restraints” and the cross bars D act as “upward movement restraints”. The examiner notes that claims 23 and 24 do not even state that there is any lateral movement of the mattress support relative to the bedframe, and that the claims at best only state the presence of lateral movement restraints. The argument that Fowler does not show a “progressive response to stretching” is completely unpersuasive since this is simply based upon an unclaimed limitation. Claims 23 and 24 only state a “plurality of elastic supports”, which is clearly shown by the set of supporting springs in Fowler.

The argument made concerning the rejection over Griffith is unpersuasive. The applicant has argued that the lateral stabilizer springs 19a, 19b, 35a, and 35b prevent free lateral movement of the bed bottom relative to the bed frame. This could only be true if these elements were rigid links or rods, however they are expressly described as being springs that allow damped movement of the bed bottom relative to the bed frame. They do not prevent any and all lateral movement of the bed bottom relative to the bed frame, and in fact these elements are the equivalent of the claims elastic restraining means.

The argument made concerning the rejection of claims 23 and 24 over Coup is also unpersuasive. Claims 23 and 24 do not state that the mattress support is capable of lateral movement. The statement that claims 23 and 24 are not anticipated by Coup because “any bed-like structure is not suspended from the frame because and springs are beneath the structure” appears to refer to unclaimed subject matter. It is not seen how this statement has any relevance to the rejection of claims 23 and 24, since these claims are silent about “springs beneath the structure”.

Allowable Subject Matter

Claims 4-8, 12-14, 17, and 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle, can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Michael Trettel
Primary Examiner
Art Unit 3673